

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION**

CHARLES CLARY,

Petitioner,

vs.

JIM SALMONSEN; and
ATTORNEY GENERAL OF THE
STATE OF MONTANA,

Respondents.

CV-21-52-H-BMM-JTJ

ORDER

Petitioner Charles Clary (“Clary”), a state prisoner proceeding pro se, filed a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254 on July 21, 2021. (Doc. 1). United States Magistrate Judge John Johnston issued Findings and Recommendations in this matter on July 22, 2021. (Doc. 4).

Judge Johnston granted Clary’s request to proceed in forma pauperis, and recommended that this Court dismiss Clary’s petition for lack of jurisdiction. (Doc. 4 at 5). Judge Johnston also recommended that this Court deny issuance of a certificate of appealability, because this Court lacks jurisdiction and no other basis exists to encourage further proceedings at this time. *Id.*

No party has filed an objection to the Findings and Recommendations. The Court has reviewed Judge Johnston's Findings and Recommendations for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). The Court finds no error in Judge Johnston's Findings and Recommendations and adopts them in full.

ORDER

Accordingly, **IT IS ORDERED:**

1. Clary's Petition for Writ of Habeas Corpus (Doc. 1) is **DISMISSED** for lack of jurisdiction.
2. The Clerk of Court is directed to enter a separate judgment of dismissal in favor of Respondents and against Clary.
3. A certificate of appealability is **DENIED**.

Dated this 13th day of August, 2021.

A handwritten signature in blue ink, reading "Brian Morris".

Brian Morris, Chief District Judge
United States District Court